IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 56 OF 2006

THE COMMISSIONER OF INCOME TAX, PANAJI-GOA. ....Appellant

Versus

VINOD S. GOSALIA, MARGAO ....Respondent

Mr. S. R. Rivankar, for the Appellant.

Mr. A.N.S. Nadkarni with Mr. H.D. Naik for the Respondent.

Coram:- J. N. PATEL &
N. A. BRITTO, JJ.

Date:- 28th November, 2006

P.C.:

The Revenue has impugned the Order dated 2.01.06 passed by the Income-Tax Appellate Tribunal in ITA NO. 303/PNJ/2002 and seeks to quash and set aside the impugned Order by raising the issue that the Appellate Tribunal has erred in holding that the transfer of property did not take place in the assessment year 1997-98 even though the possession of the property was handed over to the purchaser in part performance of the "agreement to sell" executed on 17.02.1997 and other underlying issues.

What we find from the order of the Tribunal is that the Tribunal has taken into consideration the fact that the possession was given to the owner on 16.09.1998 under provisions of section 53-A of the Transfer of Property Act and the provisions of section 2(46)(v) of the IT Act would come into operation with effect from the said date and came to the conclusion that the CIT(A) was right in holding that capital gains on the impugned transaction are not taxable in the said year and in the assessment year 1999-00 which has also been reflected in the balance

sheet of the assessee concern.

In view of the concurrent finding of fact, which is a plausible view, we do not think that any substantial question arises for determination.

Therefore the appeal is dismissed.

J. N. PATEL, J.

N. A. BRITTO, J.

sl.